

SKY MOUNTAIN
DIVISION NO. 2
AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS AMENDED INDENTURE AND DECLARATION of covenants running with the land (the "Amended CC&R's") is made this 21st day of November 1986, by Lozier Homes Corporation, a Washington corporation, and agreed to by Washington Mutual Savings Bank, a Washington corporation.

W I T N E S S E T H:

WHEREAS, Washington Mutual Savings Bank ("WMSB"), a Washington corporation, filed a Declaration of Covenants, Conditions and Restrictions (the "Original CC&R's") on February 14, 1985 under King County Recording No. 8502140052 affecting certain real property described as Sky, Mountain, Division No. 2, an addition to King County, Washington as recorded in Volume 124 of Plats, pages 97 through 98, Records of King County, which property is located in King County, Washington; and

WHEREAS, Washington Mutual Savings Bank, ("WMSE"), has assigned its rights as Declarant to Lozier Homes Corporation, and

WHEREAS, the Original CC&R's and the declaration of covenants, conditions and restrictions for Sky Mountain Division No. 1 (the "Sky Mountain Division No. 1 CC&R's") allow for eventual joint administration of the Homeowner's Association, and Architectural Control Committees; and

WHEREAS, certain homeowners in Sky Mountain Division No. 1 have pointed out certain differences between the Sky Mountain No. 1 CC&R's and the Original CC&R's and have expressed a preference to have greater harmony in the CC&R's for the purpose of future administration of said CC&Rs at such time as the architectural Control Committees are combined; and

WHEREAS, the parties hereto are willing to amend the Criteria, CC&R's and are agreeable to revising and restating the same as set forth herein, the intent being to bring them more into harmony with the Sky Mountain Division No. 1 CC&R's; and

WHEREAS notwithstanding the substantive, semantic and typographical changes and modifications in these Amended CC&R's agreed and acknowledged that existing residences constructed within Sky Mountain Division No. 2 are not in violation of the Original CC&R's or these Amended CC&R s, and construction of homes hereafter of similar standards and configuration, which comply with the square footage requirements of these Amended CC&R's will continue to be in compliance with the Original and Amended CC&R's; NOW, THEREFORE,

IT IS HEREBY MADE KNOWN THAT said parties do by these presents amend, revise and restate the Original CC&R's and do hereby make, establish,

confirm and impress upon Sky Mountain Division No. 2, an addition to King County, Washington, according to plat thereof recorded in Volume 124 of Flats, pages 97 through 98, records of King County, Washington, which property is all located in King County, Washington, the following restated protective covenants to run with said land, and do hereby bind said parties and all of their future grantees, assignees and successors to said covenants for the terms hereinafter stated and as follows:

The area covered by these covenants is the entire area described above.

1. Residential Sites and Lots. As used herein, a lot shall be a lot as shown on the plat of Sky Mountain Division No. 2 as described above. No portion of any lot in the subdivision shall be owned, used or occupied except as a part of a single residential site. A residential site shall consist of (a) one or more full lots; (b) one or more full lots and portions of a contiguous lot or lots; or (c) contiguous parts of lots which shall form one plot of land for use as a site for a residence, provided that each residential site shall extend from the fronting street to the existing rear property line of the component lots and shall have front and rear dimensions neither of which are less than those of the smallest component lot shown on the plat of the subdivision as of the date of this Declaration. A component lot shall be deemed to be a lot any portion of which is included in a residential site.

2. Occupancy and Use. No residential site in the subdivision shall be used or occupied by anyone other than the owner, purchaser or lessee thereof and his immediate family and the bona fide domestic servants of such owner, purchaser or lessee domiciled upon the premises where they are employed; nor shall any residential site be used or occupied for any purpose other than as a single family residence.

3. Building Plans. For the purpose of further insuring the development of the subdivision as a residential area of high standard, Declarant reserves the right to control the buildings and structures placed on each residential site. The owner or occupant of each residential site by acceptance of title thereto or by taking possession thereof, covenants and agrees that no building, wall, fence, hot tubs, decks, swimming pool or other structures shall be placed upon such site unless and until the plans and specifications therefor and the plot plan including front yard landscaping plans have been submitted to and approved in writing by the Architectural Control Committee hereinafter referred to as A.C.C. Each plan shall be submitted and shall show the following: residential site dimensions, location of all structures to be or already constructed on the residential site; elevations of basement and other floors in relation to the top of curb elevations; the elevation of all ridge lines in relation to the top of curb elevations and the top of existing grade elevations; sewer and other utility connections. Each such building, wall, fence, swimming pool or other structure shall be placed on a residential site only in accordance with the plans and specifications and plot plan so approved. Disapproval of plans and specifications may be based upon any grounds, including purely esthetic grounds, which in the sole discretion of A.C.C. shall be sufficient. No alteration of the exterior appearance, including color of

any building or structures shall be made without prior approval from the A.C.C. All buildings and other structures, except. swimming pools and fences, must be designed by a registered architect, a professional building designer, or by another qualified person or firm who is approved in writing by the A.C.C. If the A.C.C. fails to approve or disapprove the plans within thirty (30) days after written request thereof, then such approval shall not be required; provided, however, that irrespective of such approval or lack of it, no building, wall, fence, swimming pool or other structure shall be erected or be allowed to remain on any residential site which violates any of the covenants and restrictions contained in this Declaration.

Declarant will from time to time appoint and remove members of the A.C.C. The initial members shall be David W. Lozier, Jr., Paul F. Burckhard and Jeff Hallstrom. The written approval of any two members of the A.C.C. shall constitute the approval of said committee. A change in membership shall be affected by instrument in writing filed with the King County Auditor's office of the State of Washington. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed, pursuant to the covenant. However, if the A.C.C. should deem it necessary to contract an outside consultant for the purpose of plan review, then a charge of \$200.00 shall be assessed at time of plan submittal.

4. Homeowners' Association. At such time as Declarant deems appropriate, in its sole discretion, but no later than the time when ninety-eight percent (98%) of the residential sites have been sold, built upon, and the initial sale of said residences closed in Sky Mountain Division No. 2, Declarant shall have the right to transfer and assign its right, duties and discretion hereunder to a non-profit corporation organized by Declarant under the Provisions of Chapter 24.03 of the Revised Code of Washington which will have members who are the owner/ occupants of residential sites in the subdivisions of Sky Mountain Division No. 1 and Sky Mountain Division No. 2. The non-profit corporation so organized and constituted shall succeed to all powers and provisions reserved, granted and established on behalf of Declarant by this Declaration and shall act in the Place of Declarant with respect thereto.

5. Single-Family Residences Exclusively. All buildings allowed or erected on any residential site in the subdivision shall be for single-family residences exclusively, all for the use and occupancy of one immediate family and attendant bona fide domestic servants only, except that one other detached auxiliary building may be erected on each residential site occupied by a single-family dwelling house. All garages, carports, storage areas, tool cabins, garden houses, etc., (other than one auxiliary building) must be constructed in such a manner so as to constitute the appearance of one continuous, connected, contiguous and architecturally compatible single structure. Any auxiliary building must be so designed and constructed as to be architecturally compatible in appearance and quality of construction with the main building. Each single-family dwelling house shall have a fully enclosed finished living area which occupies no less than 1,800 square feet; provided that in computing such

minimum area, none of the area of any garage or carport shall be included. No auxiliary building shall have a ground coverage in excess of 750 square feet.

All construction of properly authorized improvements on any residential site which shall have been commenced shall be diligently pursued to completion in a manner and at a rate reasonably consistent with building standards prevailing in the subdivision with respect to high quality construction of a similar type, and in no event shall the period of construction of any improvement exceed nine (9) months from the date of commencement of foundation construction to completion as to external appearance, including finished painting and installation of the approved front yard landscaping in accordance with the plan in paragraph three (3) above.

No structure or vehicle other than a completed permanent dwelling house as contemplated by these restrictions and limitations shall be used on any residential site at any time as a residence either permanently or temporarily, except that a completed permanent auxiliary building containing living quarters may be used as auxiliary living quarters. No auxiliary building shall be deemed completed as long as the dwelling house is incomplete.

6. Setback Line. The rear yard setback line shall be a minimum of five (5) feet. The side yard setback line shall be a minimum of five (5) feet with the exception of corner sites as outlined below. The front yard setback will be a minimum of twenty-five (25) feet on all residential sites. Corner residential sites with frontage on two or more streets shall be required to observe the twenty-five (25) foot building setback on that side of the site on which the front of the dwelling house is constructed. The A.C.C. shall have the ability to waive the above set backs if they consider it in the best interest of the project to do so. The minimum side yard setback on the street side of corner residential sites with frontage on two or more streets shall be ten (10) feet.

Unless otherwise approved in writing by the A.C.C., no fence, wall, hedge, or mass planting, other than low ground plantings, shall be permitted to extend nearer to any street than the minimum setback line, except that nothing shall prevent the erection of a necessary retaining wall, provided, however, that no fence, wall, hedge, or mass planting shall at any time, where permitted, extend higher than six (6) feet above surface grade. It is further provided that no such construction or plantings shall interfere with the exposure or view or enjoyment of adjoining or facing properties. Whether or not construction or plantings will interfere with the exposure or view or enjoyment of adjoining or facing properties shall be determined by A.C.C. in its sole discretion.

Fences shall be well constructed of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of the dwelling house located on the adjacent lots or building sites or in the opinion of the A.C.C. be offensive to the owners or occupants thereof and shall be approved by the A.C.C., prior to construction.

7. Aerials. No exterior television or radio receiving or transmitting antenna, disks, or aerials of any type shall be erected or placed on any residential site.

8. Surface Grade. The surface grade or elevation on various residential sites in the subdivision as physically established by Declarant in connection with the clearing of the land and preparation of the residential sites in the subdivision shall not be substantially altered or changed in any manner which would affect the relationship of a residential site with other residential sites adjoining or which would result in obstructing the view from any other residential site in the subdivision or which would otherwise produce an effect out of harmony with the general development of the immediate area in which such residential site is located.

Whether or not any such alteration or change in the elevation or grade of any residential site would produce the effect above prohibited shall be determined by A.C.C. in its sole discretion.

9. Landscaping and Maintenance of Plant and Lawns. The owner or occupant of each residential site shall maintain their hedges, plants, shrubs, trees and lawns in a neat and trim condition at all times. The owner or occupant of each residential site by acceptance of title thereto or by taking possession thereof, covenants and agrees to submit a landscape plan for the front and all street side yards to the A.C.C. at the time building plans are submitted as outlined in paragraph three (3) above.

No shrubs, trees or bushes shall be planted and allowed to grow to a height which unduly restricts the exposure or view from adjoining properties. The A.C.C., at its discretion, after an investigation, may require any such offending shrub, tree or bush to be pruned, trimmed or removed.

10. Nuisances. Nothing shall be done or maintained on any residential site which may be or become an annoyance or nuisance to the neighborhood. No livestock, animals, poultry, or fowl shall be kept on any residential site other than animals or birds of the type and species generally recognized as common household pets in the greater Seattle area such as dogs, cats, canaries, and parakeets, and which are kept on the residential site solely as household pets, provided that they are not kept, bred, or maintained for any commercial purposes and are kept in accordance with any laws, ordinances, regulation or other restrictions of any governmental agency having jurisdiction. No such household pet which is or becomes an annoyance or nuisance to the neighborhood shall thereafter be kept on any residential site. Any outside pet areas and/or improvements shall be subject to A.C.C. approval.

No trash, refuse pile, vehicles, underbrush, weeds, compost pile or other unsightly growth or object shall be allowed to grow, accumulate or remain on any residential site, including failure to maintain landscaping so as to be a detriment to the subdivision or a fire hazard prior to, during, or after completion of construction of a permanent dwelling house. In the event any such condition shall exist upon any residential site for five (5) days after notice, the A.C.C. or its agents may enter upon the residential site and remove or abate the condition at the expense of the owner, who on demand shall reimburse the A.C.C. for the cost thereof, and such entry and removal shall not be deemed a trespass.

The public streets fronting on any residential site or common areas shall not be used for the overnight parking of any type of vehicle except a private family automobile, non-commercial truck or motorcycle. No boat, snowmobile, motorcycle, trailer, automobile, truck, recreational vehicle or any other vehicle, or any part thereof, not in actual current use for the purpose intended, shall be stored or permitted to remain on any residential site unless stored in a garage or other fully screened space. No goods, equipment, vehicles (including, but not limited to busses, trucks, or trailers), or materials or supplies used in connection with any trade, service or business shall be kept, stored or located upon any residential site.

No owner or contract purchaser or lessee of any residential lot shall permit any vehicle owned by him or by any member of his family or by any acquaintance, and which is in an extreme state of disrepair, to be abandoned or to remain parked upon any street within the existing property for a period in excess of forty eight (48) hours. Should any such owner or contract purchaser or lessee fail to remove such vehicle within two (2) days following the date on which notice is mailed to him by the A.C.C., the A.C.C. may have such vehicle removed and charge the expense of removal to said owner or purchaser in accordance with the provisions of the second preceding paragraph. A vehicle shall be deemed to be in an extreme state of disrepair when in the opinion of the A.C.C. its presence offends the reasonable sensibilities of the occupants of the neighborhood.

11. Common Areas. All areas in the plat of Sky Mountain Division No. 1 and No. 2 which are not residential sites or streets are referred to herein as "Common Areas" for the purposes of this Declaration. It is the intention of the Declarant that the owners of residential sites in Sky Mountain Division No. 2 shall be financially responsible for participating in the cost of maintaining the common areas in both Sky Mountain Division No. 1 and No. 2 in a manner determined and agreed upon by an A.C.C. which controls both divisions when the Declarants of both divisions have turned over control of the Homeowners' Associations of both divisions to the homeowners as set forth in section 4 hereof. Such maintenance shall be provided by and through Declarant or its successor non-profit organization.

Maintenance of the common areas shall include, but is not limited to, removal of diseased or dangerous planting and trees and removing, topping, limbing and trimming of trees for the purpose of maintaining a view of the Cascade Mountains and Lake Sammamish which are rights reserved hereunder to the owners of residential sites, Declarant and its successors.

12. Signs and Permanent Subdivision Entrance Markers and Landscaping. No signs whatsoever, other than conventional signs of no more than two (2) square feet indicating the name of the occupant and address of the premises and one conventional sign of not more than five (5) square feet advertising the property for sale or rent shall be placed on any residential site in the subdivision where the sign is visible outside of such building site; except for signs used by Declarant or a builder approved by Declarant, or their agents, to

advertise the availability of the property for sale during the sales and construction period up to such time as one hundred percent (100%) of the residential sites have been built upon, sold, and the sale closed. All such signs shall be subject to A.C.C. approval.

There shall be located on the northwest corner of Lot 1, Block 2, and on the southwest corner of Lot 1, Block 3 of Eastmont Home Tracts and on the southwest corner of Lot 94 and the northwest corner of Lot 1 of Sky Mountain Division No. 1 and on the northwest corner of Lot 1, and the southwest corner of Lot 81, and the northwest corner of Lot 74 in Sky Mountain Division No. 2, permanent easements for the placement and maintenance of permanent subdivision entrance markers and landscaping for the subdivisions. In addition, in the median divider running the length of Southeast 46th Street there shall be entranceway landscaping installed and maintained. The owners of residential sites in Sky Mountain No. 2 shall be financially responsible, on a pro rata share basis (by number of lots) with the 175 lot Vuemont Home Tracts, the 15 lots that comprise Blocks 1 and 2 of Eastmont Homes Tracts, and the 94 lots of Sky Mountain No. 1 for the cost of the care, maintenance, and preservation of the permanent subdivision entrance markers and landscaping in a manner consistent with the character and quality of the subdivision.

13. Assessments. Declarant hereby reserves to itself and to its successor the right to impose and collect reasonable annual assessments upon each residential site in the subdivision to provide necessary funds to pay for taxes and insurance, the cost of electricity required for street and entrance lighting and for the reasonable maintenance of such street and entrance lighting until such time as the operations of such lighting are taken over or otherwise assumed by King County or other municipal authority, for the care, maintenance and preservation of the common areas and the permanent subdivision entrance markers and landscaping, enforcement of these covenants, and other acts of Declarant in accordance with these covenants. The proceeds of such assessments shall be used for the purposes herein provided and the proper costs of assessment and collection thereof, and no part thereof shall be used for initial installation of such facilities or for any other purpose. The assessments herein provided for shall be equally divided (by lots), assessed and collected against the various residential lots in the subdivision and without reference to the value of the respective lots. Portions of lots shall be assessed on a pro-rata square footage basis. Each such assessment shall be a lien upon the lot or site upon which the same is assessed superior to all other liens created or suffered by the grantee of such lot or site, his heirs, devisees, personal representatives or assigns, except as otherwise provided with respect to mortgages and deeds of trust, and the owner of such lot or site subject to these restrictions agrees that he shall be personally liable for the payment thereof. The proceeds of such assessments shall be collected and used only for the purposes herein provided.

Nothing herein contained shall impair or defeat the lien of any mortgage or deed of trust now or hereafter recorded covering a lot or lots together with improvements and additions thereon in the subdivision but title to any property in

this subdivision obtained through a sale and satisfaction of any mortgage or deed of trust shall be held subject to all of the provisions herein.

14. Duration of Restrictions. The conditions, covenants and restrictions contained herein shall constitute a servitude upon all building sites in the subdivision and shall run with the land and be binding upon all such grantees of building sites in the subdivision and all persons claiming by, through, or under them. The acceptance of any conveyance of a residential site in the subdivision by any grantee shall constitute an agreement on the part of such grantee for himself, his heirs, devisees, personal representatives, and assigns to all conditions, covenants and restrictions contained herein. These conditions, covenants and restrictions shall remain in full force and effect until January 1, 2005, at which time they shall automatically extend for successive periods of 10 years each unless by written agreement of the then owners of 75% of the residential sites in the subdivision filed prior to the commencement of such 10-year period, it is agreed to terminate or change them in whole or in part. This declaration may be amended at any time by written agreement of Declarant, and the then owners of at least 75% of the building sites in the subdivision. Any such termination or change so agreed to shall become effective upon the recording of such agreement, duly signed and acknowledged by the necessary parties as above provided, in the office of the Recorder of King County, Washington.

15. Remedies for Violation. In the event of the violation or breach or attempted violation or breach of any of these conditions, covenants, or restrictions by any person or party claiming by, through, or under Declarant or by the virtue of any judicial proceedings, Declarant, its successors, the owner of any residential site in the subdivision, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent such violation or breach.

16. Non-Waiver. The failure to enforce any condition, covenant or restriction contained herein, however long continued shall not be deemed a waiver of the right to do so thereafter, either as to the breach or violation involved or as to any similar breach or violation occurring prior or subsequent thereto, and no such failure shall bar or affect the enforcement of any such condition, covenant or restriction as to any such breach or violation thereof.

17. Invalidation. The invalidation by any court of any condition, covenant or restriction contained herein shall in no way affect any of the other provisions hereof and the same shall remain in full force and effect.

18. Construction and Sales Office. Construction offices in a temporary structure and residential sales offices of a temporary or permanent nature may be established and maintained on residential sites in the subdivision subject to approval of the A.C.C., in their sole discretion, for the purpose of constructing and marketing residential lots and houses. Said offices shall be removed upon request by the A.C.C., but no later than at such time as ninety-eight (98%) percent of the residential sites have been sold, built on, and the sales closed.

An office to house security personnel for the subdivision may also be

established and maintained until ninety-eight percent (98%) of the residential sites have been built upon, sold, and the sales closed.

19. Litigation. In the event of litigation involving enforcement or interpretation of this Declaration, or any part thereof, the successful party, who shall be so determined by the Court, shall be entitled to recover from the other party reasonable costs, expenses and attorneys fees which award shall be included in any judgment arising out of such litigation.

20. Assignment of Declarant's Rights and Duties. Declarant may assign its rights and duties hereunder at any time to any person or entity owning property which is subject to this declaration, by execution and filing of a specific assignment of such rights and duties in the records of King County. No such assignment shall relieve any property owner of the obligation to comply with this declaration.

LOZIER HOMES CORPORATION, a
Washington corporation